

WEST TISBURY CONSERVATION COMMISSION
MINUTES OF MEETING

September 26, 2006

Present: Prudy Burt Chair, Judy Crawford, Patricia Durfee, Patrick Phear, Peter Rodegast, Debra Swanson, Tara Whiting and Maria McFarland

Also present for all or part of the meeting: John Rosenmiller and Ian Fein

Prudy Burt called the meeting to order at 5:00 P.M.

Hearings

Map 35 Lot 1 - Continuation of the public hearing under the Wetlands Protection Act and the West Tisbury Wetlands Protection Bylaw to consider a **Notice of Intent** filed by Sourati Engineering Group on behalf of John Rosenmiller for a project at 70 Pond View Farm Road owned by Janice Manter. The applicant seeks permission to perform the following activities: cut and maintain the 100 ft buffer zone up to a 10 ft wide buffer strip to be established along a bordering vegetated wetland and Muddy Cove; cut and maintain the vegetation over 36" tall within the 10' wide buffer strip; cut and maintain a path through the 10' wide buffer strip to the dam; cut and maintain vegetation on the dam between Muddy Cove and the pond; cut and maintain vegetation between the east side of the pond and the property line; cut and maintain vegetation up to 5' around the existing high bush blueberry bushes within the bordering vegetated wetland; cut and maintain two four-foot wide paths through the 10' wide buffer strip to the edge of Muddy Cove south of the dam; construct and maintain two sections of livestock fencing and maintain a 6' wide path for livestock access to the pond. With agreement from the applicant's representative, the hearing was opened and a motion made to continue the hearing to September 12th at 5:10 PM. The motion to continue was seconded and the vote in favor unanimous. On August 30 2006, the applicant filed an amendment to the Notice of Intent that these activities are exempt from the performance standards of the wetland regulations under an agricultural exemption. A tape of this hearing is available at the Commission office.

Prudy reopened the hearing. John Rosenmiller was present. Prudy, Patrick and John have discussed the outstanding issues and based on those discussions, John submitted a revised proposal, which removes any references to the farm pond. The Commission compared his proposal with the Commission's September 12th draft. John also submitted two draft letters regarding the farm pond.

John told the Commission he has been renting the house for 20 years and would like to keep things the way there are. He was tried to learn about the issues and has spoken to Doug Cooper and Don Liptack. He doesn't feel there is a problem that requires active regulation. He has an agreement with Skip to maintain the property and has talked with him about changing practices and he is very amenable. He asked the board to give him the opportunity to solve the problems that have existed and not regulate the entire buffer zone.

The board and the applicant discussed how to handle the amendment to the Notice of Intent made on August 30th, that the work proposed by the applicant is exempt under an agricultural exemption.

Patrick suggested that one possible way to handle the agricultural exemption would be for the applicant to withdraw the amendment to the application.

Prudy explained that if the amendment was withdrawn then it wouldn't have to be addressed in the findings. A lengthy discussion ensued about how to handle the amendment to the Notice of Intent.

John responded that he didn't want to exert the agricultural exemption but didn't want to withdraw the amendment, as he wasn't sure if he would be giving up some rights he might want to claim at a later time. When he originally filed the NOI he thought he was doing so to resolve the pending litigation.

It was explained to John that if he is going to claim that this work is exempt under an agricultural exemption and the board issues an order that didn't address the matter it would leave itself open to an appeal.

Debra suggested that the language of the findings be revised to read that these conditions apply to this property regardless of whether or not there is an agricultural exemption. Judy added that we could say that these conditions apply regardless of whether it has been determined that this property is entitled to an agricultural exemption.

Patrick said that it was important to keep in mind that Mr. Rosenmiller is the new owner and suggested that another site visit be conducted to see what changes have occurred since the first site visit on this application. If the Commission sees that the remaining 75 feet of the buffer zone is not being mowed, the Commission could delete this finding and the special condition under the bylaw. It decided that a site visit be held on September 28th at 4:00 PM.

The draft conditions were then reviewed working from the Commission's draft. Conditions # 1-7 were agreed to. Condition # 8 will be changed to add that livestock will be permitted to graze outside the fence. Condition # 9 will be changed to reference the dam and the causeway. The condition regarding a site visit will be deleted. It was decided that the decision be revised to delete all the language relating to the regs as being redundant.

If the Commission determines that conditions at the site have improved, the special condition concerning the remaining 75 feet of the buffer zone will be deleted. The conditions under the bylaw will be the same as those under the state regs.

Maria was instructed to make these revisions and to circulate them before the next meeting.

With agreement from the applicant, a motion was made and seconded to continue this hearing to October 10, 2006 at 5:10 PM. All in favor.

The Board then discussed the draft letters Mr. Rosenmiller submitted to the board. John said he didn't realize the farm pond was part of the issue. If he had, he would have included it in the

Notice of Intent. Now he realizes it would have been better to have come in and talked to the board informally.

It was suggested to John that his letter to the Commission could outline what he is looking with respect to the status of the farm pond and inquire as to how the Commission would treat it going forward. The Commission will then respond to his letter.

Old Business

Map 35 Lot 1.1 and 1.13 (Manter) – The motion to withdraw has been successfully filed. The Final Orders will be signed and sent to the applicant for recording.

Map 6 Lot 2 and 2.1 (Rattner) -The Commission reviewed the septic system plan for this lot that Maria obtained from the Board of Health. Maria has contacted Glenn Provost to remind him that if there is work within the Commission's jurisdiction to be done on lot 2.1 in connection with moving the house from lot 2 to this lot, that an application needs to be filed. No action was taken.

Administration

Map 34 Lot 10 SE 79-254 (Thomas) Certificate of Compliance was signed.

Map 22 Lot 2.3 SE 79-208 (Land Bank/Priester's Pond) Certificate of Compliance was signed.

There being no further business on the agenda, the meeting adjourned at 6: 45 P.M.

Respectfully submitted,

Maria McFarland
Board Administrator
APPROVED